

AMENDED IN SENATE APRIL 15, 2013

**SENATE BILL**

**No. 468**

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**Introduced by Senators Emmerson and Beall**  
(Coauthor: Assembly Member Blumenfield)

February 21, 2013

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An act to add Section 4685.8 to the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 468, as amended, Emmerson. Developmental services: statewide ~~self-determination project~~. *Self-Determination Program*.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services contracts with regional centers to provide support and services to individuals with developmental disabilities. Under existing law, the regional centers purchase needed services and supports for individuals with developmental disabilities through approved service providers, or arrange for their provision through other publicly funded agencies. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. Existing law establishes, contingent upon approval of a federal waiver, the Self-Directed Services Program, and requires the program to be available in every regional center catchment area to provide participants, within an individual budget, greater control over needed services and supports.

*This bill would require the department, contingent upon approval of federal funding, to establish and implement a state Self-Determination Program, as defined, that would be available in every regional center catchment area to provide participants and their families, within an*

*individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP, in accordance with prescribed requirements. The statewide program would be phased in over 3 years, initially serving up to 2,500 regional center consumers, and thereafter would be available on a voluntary basis to all regional center consumers. The bill would require the department to, among other things, apply for federal funding for the program by March 1, 2014.*

*Under the bill, program participants would receive an individual budget, as prescribed, to be used for the purchase of services and supports necessary to implement the participant's IPP. The bill would require program participants to agree to, among other things, manage self-determination services within the individual budget amount. Under the bill, the individual budget amount would be available to the participant each year for the purchase of services and supports under the program until a new individual budget has been determined. The bill would, among other things, require each regional center to be responsible for implementing the program as a term of its contract, and to establish a local advisory committee to provide oversight of the project. The bill would require the State Council on Developmental Disabilities to issue to the Legislature a report regarding the status of the program and recommendations to the program, as specified, and would require the department, beginning January 10, 2016, to provide to the appropriate policy and fiscal committees of the Legislature prescribed information relating to the program.*

~~This bill would require the department to implement a statewide self-determination project under which funds from regional center budgets are allocated for local self-determination projects that will enhance the ability of a consumer and his or her family to control the decisions and resources required to meet the objectives in his or her individual program plan. The statewide project would be phased in over 3 years, and serve up to 2500 regional center consumers. The bill would require the department to ensure, among other things, that self-determination is available as a choice and participants in the project reflect the disability, ethnic, and geographic diversity of the state. The bill would require self-determination projects to include, among other things, increased consumer and family control over which services best meet their needs and the IPP objectives and comprehensive person-centered planning. This bill would require a self-determination project to establish a local advisory committee, as prescribed, to provide~~

oversight of the project and to submit, by September 1, 2016, specified recommendations to the department regarding the effectiveness of the project.

This bill would require the department to report to the Legislature, as provided, by January 1, 2017, regarding the status of each project established under the bill, and would render this reporting requirement inoperative on January 1, 2021.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:  
3 (a) In 1998, the Legislature expanded the Lanterman  
4 Developmental Disabilities Services Act to include a  
5 self-determination pilot program. That pilot program was continued  
6 by the Legislature in 2002 and 2003. However, the pilot program  
7 was only available at five regional centers and the number of  
8 individuals served by the self-determination pilot program remains  
9 small, about 200 regional center consumers.  
10 (b) As reflected in the State Department of Developmental  
11 Services 2002 Report to the Legislature, the pilot program remains  
12 an innovative, cost effective and successful way of providing  
13 services to regional center consumers and their families. The  
14 findings in the report show that self-determination pilot program  
15 participants were happy and experienced more freedom and  
16 responsibility in controlling the direction of their services and life  
17 choices, and the program was cost neutral in the aggregate. The  
18 report also found that good self-determination requires intensive  
19 person-centered planning, collaboration, and follow-along services  
20 and supports.  
21 (c) Most other states have self-directed *or self-determination*  
22 services as a model for providing services. Many California  
23 consumers and families have asked for a statewide expansion of  
24 the pilot program believing it will do the following: increase  
25 innovative and effective services, eliminate bureaucracy, and  
26 increase choices for consumers and parents, thereby allowing them  
27 to increase their control of services and supports by easily  
28 navigating increasingly complex service systems.

(d) The intent of this act is to allow for voluntary participation in the ~~self-determination projects~~ *Self-Determination Program* while ensuring that the ~~project program~~ is available to all consumers regardless of geographic location, economic or educational background, or race or ethnicity, and ensuring a consistent statewide method of administration and comparable services. To ensure these outcomes are achieved, it is the intent of the Legislature that the State Department of Developmental Services and local advisory boards be responsible for oversight and monitoring of funds used for ~~self-determination projects~~ *the Self-Determination Program* and the achievement of consumer outcomes.

(e) In addition, the intent of this act is that the ~~self-determination project~~ *Self-Determination Program* be phased in over a three-year period and that the ~~project program~~ will continue to be available to all consumers as an option after the initial phase-in period ends.

SEC. 2. Section 4685.8 is added to the Welfare and Institutions Code, to read:

4685.8. (a) ~~Notwithstanding any other provision of law, the~~ *The* department shall implement a statewide ~~self-determination project under which funds from regional center budgets shall be allocated for local self-determination projects that will enhance the ability of a consumer and his or her family to control the decisions and resources required to meet the objectives in his or her individual program plan.~~ *Self-Determination Program. The Self-Determination Program shall be available in every regional center catchment area to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP. The statewide project* *Self-Determination Program* shall be phased in over three years, ~~and serve initially serving up to 2500~~ *2,500* regional center ~~consumers.~~ *consumers, and thereafter shall be available on a voluntary basis to all regional center consumers.*

(b) The department in establishing the statewide ~~project program~~ shall ensure the following:

(1) That self-determination is available as a choice for up to 2500 regional center consumers.

(2) ~~That participants~~

1 (1) *Participants in the ~~project~~ program* reflect the disability,  
2 ethnic, and geographic diversity of the state.

3 ~~(3) That the project~~

4 (2) *The program* is cost neutral in the aggregate.

5 ~~(4)~~

6 (3) A statewide method of administration and determining  
7 comparable services.

8 ~~(5)~~

9 (4) Oversight of expenditure of ~~self-directed~~ *self-determined*  
10 funds and the achievement of consumer outcomes over time.

11 ~~(e) Self-determination projects funded shall include, but not be~~  
12 ~~limited to, all of the following:~~

13 ~~(1)~~

14 (5) Increased consumer and family control over which services  
15 best meet their needs and the ~~individual program plan~~ *IPP*  
16 objectives.

17 ~~(2)~~

18 (6) Comprehensive person-centered planning, including an  
19 individual budget and services that are outcome based.

20 ~~(3)~~

21 (7) Consumer and family training to ensure understanding of  
22 the planning process and management of budgets, services, and  
23 staff.

24 ~~(4)~~

25 (8) Choice of independent facilitators who can assist with the  
26 person-centered planning process and ~~fiscal intermediaries~~ *financial*  
27 *management services providers* who can assist with payments and  
28 provide employee-related services.

29 ~~(5)~~

30 (9) Innovation that will more effectively allow consumers to  
31 achieve their goals.

32 ~~(6) Programs that provide for the utilization of parent vendors,~~  
33 ~~direct pay options, individual budgets for the procurement of~~  
34 ~~services and supports, alternative case management, and vouchers.~~

35 (c) *For purposes of this section, the following definitions shall*  
36 *apply:*

37 (1) *“Financial management services” means services or*  
38 *functions that assists the participant to manage and direct the*  
39 *distribution of funds contained in the individual budget. These*  
40 *may include, but are not limited to, bill paying services and*

1 activities that facilitate the employment of service and support  
2 workers by the participant, including, but not limited to, fiscal  
3 accounting, tax withholding, and expenditure reports. The  
4 department shall establish specific qualifications that shall be  
5 required of a financial management services provider.

6 (2) “Independent facilitator” means a person, selected and  
7 directed by the participant, who may assist the participant in  
8 making informed decisions about the individual budget, and in  
9 locating, accessing, and coordinating services consistent with the  
10 participant’s IPP. He or she is available to assist in identifying  
11 immediate and long-term needs, developing options to meet those  
12 needs, leading or participating in the person-centered planning  
13 process and development of the IPP, and obtaining identified  
14 services and supports.

15 (3) “Individual budget” means the amount of funding available  
16 to the participant for the purchase of services and supports  
17 necessary to implement the IPP. The individual budget shall be  
18 constructed using a fair, equitable, and transparent methodology.

19 (4) “IPP” means individual program plan.

20 (5) “Participant” means an individual, and when appropriate,  
21 his or her parents, legal guardian or conservator, or authorized  
22 representative, who has been deemed eligible for, and has  
23 voluntarily agreed to participate in, the Self-Determination  
24 Program.

25 (6) “Self-determination” means a voluntary delivery system  
26 consisting of a defined and comprehensive mix of services and  
27 supports, selected and directed by a participant through  
28 person-centered planning, in order to meet all or some of the  
29 objectives in his or her IPP. Self-determination services and  
30 supports are designed to assist the participant to achieve  
31 personally defined outcomes in community settings that promote  
32 inclusion. The Self-Determination Program shall only fund services  
33 and supports that are approved by the federal Center for Medicare  
34 and Medicaid Services.

35 (d) Participation in the Self-Determination Program is fully  
36 voluntary. A consumer may choose to participate in, and may  
37 choose to leave, the Self-Determination Program at any time. A  
38 regional center may not require or prohibit participation in the  
39 Self-Determination Program as a condition of eligibility for, or  
40 the delivery of, services and supports otherwise available under

1 *this division. Participation in the Self-Determination Program*  
2 *shall be available to any regional center consumer who meets the*  
3 *following eligibility requirements:*

4 *(1) The participant is three years of age or older.*

5 *(2) The participant has a developmental disability, as defined*  
6 *in Section 4512.*

7 *(3) The participant does not live in a licensed long-term health*  
8 *care facility, as defined in paragraph (44) of subdivision (a) of*  
9 *Section 54302 of Title 17 of the California Code of Regulations.*  
10 *An individual, and when appropriate his or her parent, legal*  
11 *guardian or conservator, or authorized representative, who is not*  
12 *eligible to participate in the Self-Determination Program pursuant*  
13 *to this paragraph may request that the regional center provide*  
14 *person-centered planning services in order to make arrangements*  
15 *for transition to the Self-Determination Program. In that case, the*  
16 *regional center shall initiate person-centered planning services*  
17 *within 60 days of that request.*

18 *(4) The participant agrees to all of the following terms and*  
19 *conditions:*

20 *(A) The participant shall receive an orientation to the*  
21 *Self-Determination Program prior to enrollment.*

22 *(B) The participant shall agree to utilize the services and*  
23 *supports available within the Self-Determination Program only*  
24 *when generic services and supports cannot be accessed.*

25 *(C) The participant shall only use services and supports*  
26 *necessary to implement his or her IPP and shall agree to comply*  
27 *with any and all other terms and conditions for participation in*  
28 *the Self-Determination Program described in this section.*

29 *(D) The participant shall manage Self-Determination Program*  
30 *services and supports within the individual budget amount.*

31 *(E) The participant shall utilize the services of the*  
32 *conflict-of-interest-free financial management services provider*  
33 *of his or her own choosing.*

34 *(F) The participant may utilize the services of a*  
35 *conflict-of-interest-free independent facilitator of his or her own*  
36 *choosing for the purpose of providing services and functions as*  
37 *described in paragraph (2) of subdivision (c). The financial*  
38 *management services provider shall determine that the independent*  
39 *facilitator is adequately trained and otherwise qualified.*

1     (e) A participant who is not Medi-Cal eligible may participate  
2     in the Self-Determination Program and receive self-determination  
3     services and supports if all other program eligibility requirements  
4     are met.

5     (f) An individual receiving services and supports under the  
6     self-determination projects authorized pursuant to Section 13 of  
7     Chapter 80 of the Statutes of 1998, as amended, may elect to  
8     continue to receive self-determination services and supports  
9     pursuant to this section. An individual who participates in the  
10    Self-Determination Program may elect to continue to receive  
11    self-determination services and supports if he or she transfers to  
12    another regional center catchment area.

13    (g) If at any time during participation in the Self-Determination  
14    Program a regional center determines that a participant is no  
15    longer eligible to continue in, or a participant voluntarily chooses  
16    to exit, the Self-Determination Program, the regional center shall  
17    provide for the participant's transition from the Self-Determination  
18    Program to other services and supports. This transition shall  
19    include the development of a new IPP that reflects the services  
20    and supports necessary to meet the individual's needs. The regional  
21    center shall ensure that there is no gap in services and supports  
22    during the transition period.

23    (h) An individual determined to be ineligible for or who  
24    voluntarily exits the Self-Determination Program shall be permitted  
25    to return to the Self-Determination Program upon meeting all  
26    applicable eligibility criteria and upon approval of the  
27    participant's IPP team, as described in subdivision (j) of Section  
28    4512.

29    (i) The IPP team shall utilize the person-centered planning  
30    process to develop the IPP for a participant. The IPP shall detail  
31    the goals and objectives of the participant that are to be met  
32    through the purchase of participant-selected services and supports.  
33    The IPP team shall determine the individual budget to ensure the  
34    budget assists the participant to achieve the outcomes set forth in  
35    his or her IPP and ensures his or her health and safety. The  
36    completed individual budget shall be attached to the IPP.

37    (j) The participant shall implement his or her IPP, including  
38    choosing the services and supports allowable under this section  
39    necessary to implement the plan. A participant is exempt from  
40    Section 4783, the Family Cost Participation Program, and cost



1 control restrictions, including, but not limited to, purchases of  
2 services and supports pursuant to Sections 4648.35, 4648.5, and  
3 4659, subparagraph (B) of paragraph (3) of subdivision (c) of  
4 Section 4685, Sections 4648.55, 4686.2, 4686.5, and 4689, and  
5 purchase of services best practices enacted pursuant to Section  
6 4620.3. A regional center shall not prohibit the purchase of any  
7 service or support that is otherwise allowable under this section.

8 (k) A participant shall have all the rights established in Chapter  
9 7 (commencing with Section 4700).

10 (l) The department, in consultation with stakeholders, shall  
11 develop a methodology for individual budgets that ensures the  
12 budgets are computed in a fair, transparent, and equitable manner  
13 and are based on consumer characteristics and needs, and a  
14 method for adjusting individual budgets to address a participant's  
15 unanticipated needs. In developing this methodology, the  
16 department shall ensure that budgets of all participants are cost  
17 neutral in the aggregate.

18 (m) The IPP team, using the methodology developed in  
19 subdivision (l), shall determine the individual budget for the  
20 participant. That individual budget amount shall be available to  
21 the participant each year for the purchase of program services  
22 and supports until a new individual budget has been determined.  
23 An individual budget shall be calculated no more than once in a  
24 12-month period, unless revised to reflect the unanticipated needs  
25 of the participant. The individual budget shall be distributed among  
26 uniform budget categories developed by the department in  
27 consultation with stakeholders.

28 (n) Annually, participants may transfer up to 20 percent of the  
29 funds originally distributed to any budget category set forth in  
30 subdivision (m), to another budget category or categories.  
31 Transfers in excess of 20 percent of the original amount allocated  
32 to any budget category may be made upon the approval of the  
33 regional center or the participant's IPP team. Regional centers  
34 or the IPP team may only deny a transfer if necessary to protect  
35 the health and safety of the participant.

36 (o) Consistent with the implementation date of the IPP, the IPP  
37 team shall annually ascertain from the participant whether there  
38 are any circumstances that require a change to the annual  
39 individual budget. Based on that review, the IPP team shall

1 calculate a new individual budget consistent with the methodology  
2 identified in subdivision (l).

3 (p) On or before March 1, 2014, the department shall apply for  
4 federal Medicaid funding for the Self-Determination Program by  
5 applying for a state plan amendment, an amendment to a current  
6 home- and community-based waiver for individuals with  
7 developmental disabilities, for a new waiver, or by seeking to  
8 maximize federal financial participation through other means.  
9 Contingent upon approval of federal funding, the  
10 Self-Determination Program shall be established. The department  
11 shall adopt regulations to implement the procedures set forth in  
12 this section.

13 (q) The department, in consultation with stakeholders, shall  
14 develop informational materials about the Self-Determination  
15 Program. The department shall ensure that regional centers are  
16 trained in the principles of self-determination, the mechanics of  
17 the Self-Determination Program, and the rights of consumers and  
18 families as candidates for, and participants in, the  
19 Self-Determination Program.

20 (r) Each regional center shall be responsible for implementing  
21 the Self-Determination Program as a term of its contract under  
22 Section 4629. As part of implementing the program, the regional  
23 center shall do all of the following:

24 (1) Contract with local or family-run consumer organizations  
25 to conduct outreach and training through local meetings or forums  
26 to provide regional center consumers and their families with  
27 information about the Self-Determination Program and to help  
28 ensure that the program is available to a diverse group of  
29 participants, with special outreach to underserved communities.

30 (2) Advance funds to a financial management services provider  
31 to facilitate participation in the Self-Determination Program, as  
32 determined necessary by a participant's IPP team.

33 (s) The financial management services provider shall provide  
34 the participant, or his or her authorized representative, and the  
35 regional center service coordinator with a monthly individual  
36 budget statement that describes the amount of funds allocated by  
37 budget category, the amount spent in the previous 30-day period,  
38 and the amount of funding that remains available under the  
39 participant's individual budget.

1     *(t) Only the financial management services provider is required*  
2     *to apply for vendorization in accordance with Subchapter 2*  
3     *(commencing with Section 54300) of Chapter 3 of Title 17 of the*  
4     *California Code of Regulations, for the Self-Determination*  
5     *Program. All other service providers shall have applicable state*  
6     *licenses, certifications, or other state required documentation, but*  
7     *are exempt from the vendorization requirements set forth in Title*  
8     *17 of the California Code of Regulations. The financial*  
9     *management services provider shall ensure and document that all*  
10    *service providers meet specified requirements for any service that*  
11    *may be delivered to the participant.*

12    *(u) A participant may request, at no charge to the participant*  
13    *or the regional center, criminal history background checks for*  
14    *persons seeking employment as a provider of services and supports*  
15    *and providing direct care services and supports to the participant.*

16    *(1) Criminal history record checks pursuant to this subdivision*  
17    *shall be performed and administered as described in subdivision*  
18    *(b) and subdivisions (d) to (h), inclusive, of Section 4689.2, and*  
19    *Sections 4689.4 to 4689.6, inclusive, and shall apply to*  
20    *vendorization of providers and hiring of employees to provide*  
21    *services and supports for family home agencies and family homes.*

22    *(2) The department may enter into a written agreement with the*  
23    *Department of Justice to implement this subdivision.*

24    ~~(d)~~

25    ~~(v) Each self-determination project regional center shall~~  
26    ~~establish a local advisory committee to provide oversight of the~~  
27    ~~self-determination project. Self-Determination Program. The~~  
28    ~~regional center, area board, and the Office of Clients' Rights~~  
29    ~~Advocacy of Disability Rights California shall each appoint~~  
30    ~~one-third of the membership of the committee, which shall consist~~  
31    ~~of consumers, family members, clients' rights advocates and other~~  
32    ~~advocates, and community leaders. A majority of the committee~~  
33    ~~shall be consumers and their family members. The committee shall~~  
34    ~~reflect the multicultural diversity and geographic profile of the~~  
35    ~~catchment area. The committee shall review the development and~~  
36    ~~ongoing progress of the self-determination project~~  
37    ~~Self-Determination Program, including whether the project~~  
38    ~~program is operating consistent with the requirements of~~  
39    ~~subdivisions (a) and (b) this section, and may make ongoing~~  
40    ~~recommendations for improvement to the regional center and the~~

1 department. ~~By September 1, 2016, the local advisory committee~~  
2 ~~shall submit to the department recommendations regarding the~~  
3 ~~effectiveness of the project and the continuation and expansion of~~  
4 ~~self-determined services.~~

5 (w) *Commencing January 10, 2016, the department shall*  
6 *annually provide the following information to the appropriate*  
7 *policy and fiscal committees of the Legislature:*

8 (1) *Number and characteristics of participants, by regional*  
9 *center.*

10 (2) *Types and ranking of services and supports purchased under*  
11 *the Self-Determination Program, by regional center.*

12 (3) *Range and average of individual budgets, by regional center,*  
13 *including adjustments to the budget to address unanticipated need.*

14 (4) *Information regarding participant satisfaction under the*  
15 *Self-Determination Program and, when data is available, the*  
16 *traditional service delivery system, by regional center.*

17 (5) *The proportion of participants who report that their choices*  
18 *and decisions are respected and supported.*

19 (6) *The proportion of participants who report that they are able*  
20 *to recruit and hire qualified service providers.*

21 (7) *The number and outcome of individual budget appeals, by*  
22 *regional center.*

23 (8) *The number and outcome of fair hearing appeals, by regional*  
24 *center.*

25 (9) *The number of participants who voluntarily withdraw from*  
26 *the Self-Determination Program and a summary of the reasons*  
27 *why, by regional center.*

28 (10) *The number of participants who are subsequently*  
29 *determined to no longer be eligible for the Self-Determination*  
30 *Program and a summary of the reasons why, by regional center.*

31 (11) *Identification of barriers to participation and*  
32 *recommendations for program improvements.*

33 (12) *A comparison of average annual expenditures for*  
34 *individuals with similar characteristics not participating in the*  
35 *Self-Determination Program.*

36 (e)

37 (x) ~~The department~~ *State Council on Developmental Disabilities,*  
38 *in collaboration with the protection and advocacy agency identified*  
39 *in Section 4900 and the federally funded University Centers for*  
40 *Excellence in Developmental Disabilities Education, Research,*

1 *and Service*, shall issue a report to the Legislature no later than  
2 ~~January 1, 2017, three years following the approval of the federal~~  
3 ~~funding on the status of each self-determination project the~~  
4 *Self-Determination Program* authorized by this section, and provide  
5 recommendations ~~with respect to continuation and expansion. to~~  
6 *enhance the effectiveness of the program.*

7 ~~(f) (1) The requirement for submitting a report imposed under~~  
8 ~~subdivision (e) is inoperative on January 1, 2021, pursuant to~~  
9 ~~Section 10231.5 of the Government Code.~~

10 ~~(2) A report to be submitted pursuant to subdivision (e) shall~~  
11 ~~be submitted in compliance with Section 9797 of the Government~~  
12 ~~Code.~~